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MBH ARCHITECTS, INC. aka McNULTY
BRISKMAN HEATH

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

BOVIS LEND LEASE, INC. as assignee
of LNR-LENNAR BRANNAN STREET,
LLC,

Plaintiff,

vs.

MBH ARCHITECTS, INC. aka
McNULTY BRISKMAN HEATH and
DOES 1 through 150, inclusive,

Defendant.

CASE No. C 07-05262 JSW

**DECLARATION OF JOHN B. SULLIVAN
IN SUPPORT OF REPLY BRIEF IN
SUPPORT OF MBH ARCHITECTS, INC.'S
MOTION FOR LEAVE TO FILE A THIRD
PARTY COMPLAINT AGAINST LNR-
LENNAR BRANNAN STREET, LLC**

Action Removed: October 16, 2007
Judge: Hon. Jeffrey S. White

I, John B. Sullivan, declare:

1. I am an attorney at law duly licensed to practice by the State of California.

If called as a witness herein, I would and could testify competently to the following.

2. I am an associate at Long & Levit LLP, attorneys of record for MBH Architects, Inc.

3. MBH respectfully requests that this Court consider this Reply Brief despite the fact that it was not timely filed due to a calendaring error at Long & Levit. MBH originally filed this motion for April 4, 2008. However, the Court informed counsel that the earliest such a

1 motion could be heard was April 18, 2008. Counsel believed that its Reply Brief was not due
2 until April 4, 2008, 14 days prior to the hearing date of April 18, 2008 under Local Rule 7-3. On
3 March 26, 2008 counsel discovered that this Reply Brief was in fact due on March 21, 2008. It
4 filed the Reply Brief on that same day. Bovis will not be prejudiced by this late filing because it
5 is not entitled to file a responsive pleading.

6 4. Attached to this Declaration as Exhibit 1 is a true and correct copy of
7 Bovis' Complaint For Damages. Attached as Exhibit A to the Complaint is the Contract entered
8 into between Lennar and MBH upon which Bovis bases its claims in this action.

9 5. Attached to this Declaration as Exhibit 2 is a true and correct copy of
10 Bovis' responses to MBH's First Set of Special Interrogatories. In response to Special
11 Interrogatory No. 3, Bovis appears to claim that Lennar would be responsible for any attorney fee
12 award to MBH arising out of this action.

13 I declare under penalty of perjury that the foregoing is true and correct and that
14 this declaration was executed on March 26, 2008 in San Francisco, California.

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18 JOHN B. SULLIVAN

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